

**Rule 10. Canvassing and Recount**

## 10.1 Precanvass accounting

10.1.1 Detailed Ballot Log. The designated election official must keep a detailed ballot log that accounts for every ballot issued and received beginning when ballots are ordered and received. The election officials must reconcile the log at the conclusion of each workday.

10.1.2 Daily voter service and polling center ballot accounting. The designated election official must supply each polling location with a Statement of Ballots Form. Election judges must record the following information on a separate statement of ballots form for each day that the polling location is open:

- (a) The name or number of the polling location;
- (b) The number of ballots provided to or printed on-demand at the polling location;
- (c) The number of ballots cast;
- (d) The number of unvoted ballots;
- (e) The number of damaged or spoiled ballots;
- (f) The number of voted provisional ballots; and
- (g) The date.

10.1.3 After a polling location closes for the day election judges must complete the following tasks:

- (a) Reconcile the total number of voted ballots with the number of voters who voted.
- (b) Verify that the total number of voted ballots, spoiled or damaged ballots, provisional ballots, and unvoted ballots is the same as the number of total ballots supplied to or printed at the polling location.
- (c) Reconcile the number of people who signed signature cards to the total number of ballots cast.
- (d) Provide a written explanation of any discrepancy in the numbers on the Statement of Ballots form, (for example, the voter signed in but left the polling location without voting, etc.).

10.1.4 After the voter service and polling center closes on election night, election judges must return the completed Statement of Ballots form for each day the location was open along with all voted ballots to one of the election offices designated in the mail ballot plan.

10.1.5 Designated Election Official's disposition of forms

- (a) The designated election official must review the Statement of Ballots forms for completion and accuracy.

- (b) If the designated election official or the canvass board discovers a problem with a Statement of Ballots form that cannot be easily resolved, they may contact the election judges for an explanation or correction.

## 10.2 Appointment to the Canvass Board

- 10.2.1 In all cases, the canvass board must consist of an odd number of members, and each member has equal voting rights.
- 10.2.2 For a partisan election, each major party may have no more than two representatives on the canvass board. The board must include an equal number of representatives from each major party, unless a major party fails to certify representatives for appointment.
- 10.2.3 Each major party representative on the canvass board must be registered to vote in the county where the representative will serve and affiliated with the party he or she represents.
- 10.2.4 A candidate for office and members of the candidate's immediate family may not serve on the canvass board.
- 10.2.5 Appointment of Canvass Workers. The designated election official may appoint canvass workers to help prepare and conduct the canvass.

## 10.3 Duties of the Canvass Board

- 10.3.1 The canvass board must make its determinations by majority vote in accordance with section 1-10-101.5(1)(c), C.R.S.
- 10.3.2 The canvass board's duties are to:
  - (a) Conduct the canvass in accordance with section 1-10-101.5, C.R.S., including:
    - (1) Account and balance the election and certify the official abstract of votes;
    - (2) Reconcile the number of ballots counted to the number of ballots cast; and
    - (3) Reconcile the number of ballots cast to the number of voters who voted by reviewing the reconciled detailed ballot logs and Statement of Ballots.
  - (b) Observe the post-election audit in accordance with section 1-7-514(4), C.R.S., and Election Rule 25.2 or 25.3;
  - (c) In coordination with the county clerk, investigate and report discrepancies found in the audit under section 1-7-514(2), C.R.S.; and
  - (d) Conduct any recount in accordance with section 1-10-5-107, C.R.S., and this Rule. The canvass board's role in conducting a recount includes selecting ballots for the random test, observing the recounting of ballots, and certifying the results.
- 10.3.3 If the board identifies a discrepancy in a Statement of Ballots form, the board may review the particular ballots at issue to identify, correct, and account for the error.
- 10.3.4 The canvass board may not perform duties typically reserved for election judges, including:

- (a) Determining voter intent;
- (b) Evaluating voter eligibility; and
- (c) Requesting new logs or reports that were not created to conduct the election.

10.3.5 Role of Watchers. Watchers appointed under section 1-10-101(1)(a), C.R.S., may observe the board while it performs its duties, subject to Rule 8.

10.4 No canvass board may certify official results until authorized to do so by the Secretary of State. The Secretary of State may extend the canvass deadline for one or more counties in order to complete the risk-limiting audit in accordance with Rule 25.2. Before certifying official results, a county that conducts a comparison audit as defined in Rule 25.1.5 must manually adjust the preliminary results to account for discrepancies identified in the risk-limiting audit if directed by the Secretary of State.

#### 10.5 Procedures for Canvass

10.5.1 The designated election official must provide the following information to the canvass board:

- (a) The name of each candidate, office, and votes received;
- (b) The number or letter of each ballot issue or question and votes received;
- (c) The total number of ballots cast;
- (d) The number of provisional ballots cast, including totals for:
  - (1) Ballots accepted by each code; and
  - (2) Ballots rejected by each code.
- (e) The number of mail ballots cast, including totals for:
  - (1) Ballots accepted; and
  - (2) Ballots rejected by each code.
- (f) The number of in-person ballots counted;
- (g) The number of emergency replacement ballots, including totals for:
  - (1) Ballots accepted; and
  - (2) Ballots rejected by each code.
- (h) The number of damaged and spoiled ballots.
- (i) If applicable, the number of ballots cast in each party's primary election, including totals for:
  - (1) Ballots accepted in each party's primary election by affiliated and unaffiliated voters; and

(2) Ballots rejected by each code.

10.5.2 Any written documentation regarding official results must be included as part of the canvass.

10.5.3 Written Complaints

- (a) The designated election official must provide the canvass board with any written complaint submitted by a registered elector about a voting device.
- (b) If the complaint is resolved, the designated election official must provide the details of the resolution.
- (c) If the complaint is pending resolution when the board meets to conduct the canvass, the designated election official must provide a proposal for how the issue will be resolved.

10.6 Official Abstract and Reporting to the Secretary of State

10.6.1 The official county abstract must include, by precinct or ballot style, where applicable:

- (a) The total number of active registered electors on election day;
- (b) The total number of registered electors (active and inactive) on election day;
- (c) The statement of votes counted by race and ballot question or issue; and
- (d) The total number of ballots cast in the election.

10.6.2 A county must submit the state portion of the abstract and the ENR upload required by Rule 11.10.5 to the Secretary of State in the format approved by the Secretary of State. The state portion of the abstract must include:

- (a) The summary of votes cast for each state race and each ballot question or issue; and
- (b) The total number of ballots counted in the election.

10.7 The County Abstract is the Official Permanent Record

10.7.1 The designated election official must keep all official canvass reports and forms as part of the official permanent election record.

10.7.2 Once the canvass board certifies the abstract it may not withdraw the certification. In the event of a recount, the canvass board may only affirm or amend the abstract.

10.8 Role of the Secretary of State

10.8.1 As part of the Secretary's duties under section 1-1-107, C.R.S., the Secretary may provide guidance and investigate imperfections as outlined below.

10.8.2 The county clerk or the canvass board may request that the Secretary of State provide guidance and support to the canvass board in the exercise of the board's duties.

- 10.8.3 If, in the course of assisting a canvass board, the Secretary of State discovers an imperfection that the Secretary believes may affect the conduct of other canvass boards, the Secretary may provide notice to other counties regarding the nature of the imperfection.
- 10.9 Recount generally
- 10.9.1 The purpose of a recount is to re-tabulate the ballots.
- 10.9.2 For statewide or federal races, ballot issues or ballot questions, the county clerk must coordinate scheduling the recount through the Secretary of State's office so that it can ensure adequate observer coverage.
- 10.9.3 If there is a recount in a local jurisdiction whose borders encompass area in more than one county, the controlling county, as defined in Rule 4.2.2, must coordinate the scheduling and conduct of the recount with each county that shares the jurisdiction.
- 10.10 Recount cost estimates and reimbursements
- 10.10.1 A county must submit a request for reimbursement for a mandatory recount of a state or federal race or ballot measure using the Secretary of State approved form. The county may not request reimbursement for meals or normal overhead costs or regular employee compensation. The county must include itemized costs for reasonable expenditures, including:
- (a) Mailings and notices;
  - (b) Election judges, temporary staff, canvass board pay, and overtime pay; and
  - (c) Copies and other office expenses related to the recount.
- 10.10.2 Requested recounts
- (a) The county clerk must provide an itemized cost estimate in accordance with section 1-10.5-106, C.R.S., upon submission of a formal request for a recount.
  - (b) In preparing a cost estimate for a requested recount, the county must use the Secretary of State approved form. The estimate must include reasonable itemized costs for conducting the recount. The county may not request reimbursement for normal overhead costs.
  - (c) The county clerk must submit a cost estimate to the Secretary of State when the clerk provides it to a requesting party.
- 10.11 In accordance with section 1-10.5-107, C.R.S., and Rule 10.3.2(d), the canvass board's role in conducting a recount includes selecting ballots for the test, observing the recounting of ballots, and certifying the results.
- 10.12 Testing recount equipment
- 10.12.1 The canvass board must review the post-election audit before selecting the equipment for testing under section 1-10.5-102(3), C.R.S. To the extent feasible, the board must select equipment for testing that was not included in the post-election audit.

10.12.2 The county clerk must test all optical scanners that will be used in the recount. The purpose of the test is to ensure that the tabulation machines are counting properly.

- (a) The test deck must include 50 ballots or 1% of the total number of ballots counted in the election, whichever is greater, except that the total number of ballots tested may not exceed the total number of ballots comprising the county's test deck for the Logic and Accuracy test before the election. The ballots must be marked to test every option for the race or measure that will be recounted.
  - (1) In a mandatory recount, the canvass board must select the ballots to be tested from the county's test deck for the Public Logic and Accuracy test.
  - (2) In a requested recount, the person requesting the recount may mark up to 25 ballots. Any other candidate in the race may also mark up to 25 ballots. The canvass board must randomly select ballots from the county's test deck for the Public Logic and Accuracy test to ensure the minimum number of test ballots required by this Rule.
- (b) Sworn judges or staff must hand tally the test ballots for comparison to the tabulation results.
- (c) The test is limited to the race or measure that is recounted.

10.12.3 The county clerk must test the VVPAT records from 1% of the DREs that had votes cast on the ballot style containing the race or measure being recounted.

- (a) Sworn judges or staff must manually verify the results on the machines selected for the test.
- (b) The test is limited to the race or measure that is recounted.

### 10.13 Counting ballots during a recount

10.13.1 In accordance with section 1-10.5-102(3)(b), C.R.S., if there are no discrepancies in the test under Rule 10.12, the recount must be conducted in the same manner as the ballots were counted in the election except as outlined in this Rule. If there are unresolvable discrepancies in the test, the recount must be conducted as a hand count under Rule 10.13.5.

10.13.2 A clear audit trail must be maintained throughout the recount including, but not limited to, a log of seal numbers on transfer cases or ballot boxes, and the corresponding numbered seal for each transfer case or ballot box.

10.13.3 Ballots must be reviewed for voter intent using the standards in Rule 18.

- (a) Every over-vote or under-vote in the race(s) or measure(s) subject to the recount must be reviewed for voter intent under Rule 18.
- (b) The judges conducting the voter intent review may resolve the intent differently than the judges in the election.

10.13.4 To recount ballots using "Ballot Now":

- (a) Back up the official election database.

- (b) Open Ballot Now with an unused Mobile Ballot Box (MBB) from the election and create a Ballot Now recount database.
- (c) Scan and resolve all recount ballots according to this Rule 10.
- (d) Save all recount Cast Vote Records to the MBBs after verifying that the number of ballots processed matches the number of votes cast in the recount contest.
- (e) Open a new recount election in "Tally" and process the recount MBBs following the tabulation procedures above.
- (f) Compare recount results to original results and document any differences.
- (g) Backup the test database and the official recount database.

10.13.5 To recount ballots by hand count.

- (a) If the tabulation of the original count was conducted by hand count, the recount must be conducted by hand count.
- (b) Ballots must be counted in batches of 25 to ensure that the number of ballots recounted matches the number originally counted.
- (c) Votes must be counted by individual hash marks in 25-count sections by two different judges.

10.13.6 For tabulation of DREs, if there are no discrepancies in the test under Rule 10.12.3, the county clerk must upload the memory cards.

10.13.7 Tabulation of ballots must be completed through a precise, controlled process that ensures each container of ballots is retabulated and resealed before tabulation of the next container begins.

10.13.8 The number of ballots counted according to the final results for that race or measure must be available during the recount for comparison purposes.

10.14 Canvass and reporting results for a recount

10.14.1 Totals of recounted ballots must be reported in summary form as follows:

- (a) Sum total of votes for each race or measure recounted, under-votes, and over-votes for each location;
- (b) The totals must be a combined total, not totaled by individual precincts or location, unless the tabulation system allows.

10.14.2 In accordance with section 1-10.5-107, C.R.S., and this Rule 10, the canvass board must amend, if necessary, and re-submit the abstract of votes cast.

